

## **REMARKS/ARGUMENTS**

The Office Action dated August 27, 2007 has been carefully reviewed and these remarks are responsive thereto. Reconsideration and allowance of the instant application are respectfully requested. Claims 3, 5-11, 13-21 and 23 are pending in this application.

Claims 3, 5-21, and 23 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Publication No. 2003/0027549 to Kiel (“Kiel”) and newly cited Cromer (7,113,497). Applicants respectfully traverse this rejection.

The Office Action asserts that the combination of Kiel and Cromer teaches or suggests all the features of claim 3. The Action concedes that Kiel fails to teach or suggest a method for bandwidth management comprising “imposing a more restrictive bandwidth on that subscriber” and relies on Cromer (col. 2, line 45 – col. 3, line 31) to show this feature. Applicants, however, submit that Cromer fails to teach this feature of claim 3.

Claim 3 requires bandwidth restriction, that is, the bandwidth is restricted to reduce the amount of data transmission per unit time. It does not simply grant or deny network access to the user as does the cited prior art. As an example of how the method of the instant claim could work, if a user is allowed to send at 512 Kbps, but then exceeds 5GB of data transmitted in a week, his/her transmission rate (bandwidth) might be limited to 50 Kbps for the next week, if he/she then exceeded 7GB of data transmitted, the transmission rate might be limited to 10Kbps. In time and once the user is back in compliance, the rate would be restored to the original 512Kbps. (Note that this method allows the user to keep using the network, but just at a limited bandwidth.)

Cromer describes a method for regulating realtime bandwidth by using Clear to Send hardware signaling to prevent transmission. Notably, Cromer merely describes *allowing or disallowing* sending of data based on the current transmission speed. That is, Cromer describes control transmissions that are based on the ability to send a signal, which is *granted or denied*, and does not teach or suggest imposing a more restrictive bandwidth as recited in claim 3.

In addition, Cromer merely describes supporting control of rates in *one direction*. In contrast, claim 23 recites, among other features, “when either the upstream or downstream

balance of the account of a subscriber of the wireless network drops below a defined level, imposing a more restrictive bandwidth on that subscriber.” (Emphasis added).

Thus, Cromer fails to remedy the deficiencies of Kiel. As such, claim 3 is patentable over the combination of Kiel and Cromer. Claims 5-11 and 13-20, which depend from claim 3, are patentable over the combination of Kiel and Cromer for at least the same reasons as their ultimate base claim and further in view of additional advantageous features recited therein.

Claim 21 calls for, among other features, “storing an upstream balance and a downstream balance for each of a plurality of subscribers...imposing a more restrictive bandwidth on a subscriber responsive to at least one of the balances of that subscriber.” For at least similar reasons as discussed above, with respect to claim 3, claim 21 is patentable over the combination of Kiel and Cromer. Claim 23, which depends from claim 21, is patentable over the combination of Kiel and Cromer for at least the same reasons as its ultimate base claim and further in view of additional advantageous features recited therein.

## CONCLUSION

In view of the above remarks, this application is in condition for allowance.

The Commissioner is authorized to charge our Deposit Account No. 19-0733 for any fees associated with this paper or application. A duplicate copy of this sheet is enclosed for accounting purposes.

Respectfully submitted,

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